App. F. IX-4

Previous References

193 5
(Kuffri)

File No. 43-38
Serial Nos. 8 12
43-22.21

Later References

RT. 22-386(3-4)

PRESERVED 39

GENERAL AND REVENUE SECRETARIAT

Serial Nos. ~~6~~ nine

Part B for ~~August~~ 1936

SUBJECT.

Permanent disqualification of one Mahomad Sale from obtaining a motor driving licence.

Nop 11048 3/11-8-36 Bamfylde

notifies the above

M.J.
26/8/36

6278 [illegible]

Tel. Address:—Dismag.
CHITALDRUG.

In reply, please refer to
No. J2.C.888/35-36
Enclosures. Driving license & Copy of Judgment.

OFFICE OF THE DISTRICT MAGISTRATE,
CHITALDRUG DISTRICT.

Dated Chitaldrug,.....7th..A..p..r..i..1936.

Pol 43-35-5

FROM

N. SUNDARARAJA IYENGAR, ESQ., B.A.,
District Magistrate,
Chitaldrug District.

Mr T.R
Pol
11/4/36

To

M. Venkatesaiengar, Esq., M.A.,
General Secretary to Government of Mysore,
BANGALORE.

GENERAL SECRETARIAT
11 APR. 1936

Subject: Permanent cancellation of Mohamed Sab's driving license under Section 18 (ii) of the Mysore Motor Vehicles Regulation XVI of 1928

OFFICE OF THE FIRST MEMBER OF COUNCIL
17 APR. 1936

In inviting kind reference to para 19 of the enclosed copy of the judgment passed by the Special First Class Magistrate, Davangere, in C.C.191/35-36,(Government Vs. Mohamed Sab under Section 338 I.P.C.) - a case of ~~hus~~ accident mainly caused by the negligent and reckless act of the driver of vehicle Mys.6749, resulting in injuries to many including one who was made a cripple for life, I have the honor to request that the ~~dirs~~ driver's driving license (enclosed herein) may kindly be caused to be cancelled permanently under Section 18(ii) of the Mysore Motor Vehicles Regulation. As regards the conduct of the Police Constable 477(Raja Rao), the Dist Superintendent of Police, Chitaldrug, has been asked to take necess action for his summary dismissal as opined by the learned Magistrat

Dft of a show cause notice subd for appr.

GENERAL SECRETARIAT
16 APR. 1936
478

I have the honor to be,
Sir,
Your most obedient servant

Genl Secy) Pol 16/4 16/4

16/4/36 Pol

First Member

TREASURY ASSISTANT COMMISSIONER
FOR DEPUTY COMMISSIONER
CHITALDRUG DIST.
(Absent from Head Quarters)

GENL. & REV. SECTT.
20 APR. 1936
VR.

3) 17/4

17/4-36

Pol 17/4

4) Issue Pol 20/4

Issued no P 1035 of 23.4.36

7391 7/79

Cancellation of the driving licence of
S. Mahamed Sab

General and Revenue Secretariat | Key | File No. 43 of 1935. | App. F. III—2

Serial No.	
17	From, the Dy. Chitaldroog no. J2 C 888/35-36 d) 20.5.36 Returns the show cause notice duly served on the individual. 5) The date of service of the notice is 9.5.36 The lapsing of the prescribed period of one month has to be awaited. Subs for orders. 6) Yes. 22/5
	From, S. Mahamed Sab, Shimoga d) 30.5.36 States that his appeal against the sentence is pending in the Sessions Court and prays that he may be excused. Subs for orders. 7) Please enquire the Dtmplt whether there is an appeal filed by this man in the sessions court and whether it is still pending? 4/6
	8) Dft. letter subs for appl. 9) Issue 6/6 To, the Dy. Chitaldroog no. P 8151 d) 10.6.36 Calls for a rpt.

Subs (9-6-36)

8. JUN. 1936 GENL. & REV. SECTT.

NOTE—Contn. Sheet.

WD 70—GBPM—60,000—13-8-31.

Cus A 11-6-36

Cancellation of the driving license of S. Mahamad Sab 342/36

Legs File No. 43 of 1935 General and Revenue Secretariat

20

From,

The Dm Chitaldrug

no J2 C 888/36-37 dt 13.7.36

Furnishes the description of S. Mahamad Sab and states that the appeal filed by him was posted for to 8th July 36 for argument.

10) Reference para 7 supra

Subs for orders

By 14/7/36 mk

11) We have to get a report as to the result of the appeal.

mk 15/7

12) Dft letter to the Dm subs for appl

By mk 15/7/36.

13) Issue mk 15/7

TYPING SECTION, 15 JUL. 1936 GENL & REV. SECTT.

To,

21

The Dm Chitaldrug

no P 457 dt 15.7.36

Calls for the result of the appeal and a copy of the judgment in appeal.

Subs A. 20-7-36

22

The Dm Chitaldrug

no J 888/35-36 dt 22.7.36

Forwards a copy of the judgment.

14) Cancelling the driving license of Mahamad Sab permanently is for orders. As regards the second

571

Cancelation of the driving license of S. Mahamad Sab

General & Revenue Secretariat. | File No. 43 of 1935. | [App. F. III–2

Serial No.

point raised in the P.u.D Viz filing an appn before the High Court for enhancement of the lenient sentence the file will be transferred to the Law Section after orders are issued on point 1.

Subs for orders

M. 24/7/36

15) The Judgments both of the 1st class Hqtr, Davangere and of the Sessions Judge, Shimoga in appeal, clearly show that S. Mahamad Sab is unfit to hold a driving license under the Motor Vehicles Regns. The DT rightly recommends that he may be permanently disqualified under Sec 18(ii) of the Regulation. No sufficient cause has been shown by the party why this recommendation should not be accepted. I think this is a fit case for action being taken under Sec 18(ii) and If this is approved, there is perhaps no need to move the High Court for enhancement of sentence, since 2 R.I Completed with the permanent Cancellation of the license is sufficient punishment.

(Gen Secy) Thro' Secy T+BD) 24/7

16) This view may be accepted 27/7/

First Member

18) 29/7

19) Draft 4/8 24/7 3

27 JULY 1936

OFFICE OF THE FIRST REGISTRAR OF COURTS 31 JULY 1936 NOTE—Contn. Sheet.

571

Cancellation of the driving license of S Mahamad Sab

Legs File No. 43 of 1935.

General and Revenue Secretariat

Dft ~~notfn~~ Subs for appl

7/8/36 Issue & Reminder pnl 7/8

To 1

TYPING SECTION. 24 8 AUG. 1936 GENL & REV. SECTT.

The Compiler, Mysore Gazette

no P 1108 d) 11.8.36

Notifies the permanent Disqualification of S. Mahamed Sab from obtaining a license under the M. M. V. Regn.

Copy to the I.S.P. nos 1109-17 d) 11.8.36 & Drs of DS

Copy forwarded to the Secretary to the Hon'ble Resident

no pol 197 d) 11.8.36.

Dft letter to the Dy. Chitaldrug Subs for appl

Issue pnl 13/8

13/8/36

Issued no P 1190 d) 13/14.8.36

TYPING SECTION. 13 AUG. 1936 GENL & REV. SECTT.

B 17.8 36

IN THE COURT OF THE SPECIAL FIRST CLASS MAGISTRATE, DAVANGERE
Dated this 20th day of March 1936

Present:-
Mir Safdar Hussain Esq., B.A.,
Special First Class Magistrate, Davangere

C.C. NO. 191/35-36 - Sec. 338 I.P.C.

Complainant		Accused.
Government	Vs.	Mahomed Sab, Resident of Shimoga.

JUDGMENT.

1. The Sub Inspector of Police, Harihar Range has placed a charge sheet against the accused under section 338 I.P.C., the charge being that the said accused on 12-9-1935 drove Bus NO. 6749 on Shimoga - Harihar road from Shimoga to Harihar in a rash manner and at high speed as a result of which the said Buss fell down and caused injuries to the passengers seated in it and the prosecution examined 13 witnesses to prove the said charge and the evidence in brief is as follows:-

2. P.W1(Mr. Srinivasan) states that on 12th September 1935 he left Savalanga to Harihar with his brother S. Ranganna and his family with the intention of taking train at Harihar to go to Bangalore and they travelled in the buss the accused was driving and A2 was conductor of it and they reached Malebennor at 4-30 P.M.; and when the buss halted at Malebennur A1 asked A2 whether everything was alright with the Bus and A2 said that the hind wheel required air and A1 told him in reply to watch the tyre and that he would reach Harihar before it becomes flat and he increased the speed of the bus and it must be more than 40 miles and that in two minutes he travelled less than two miles and on account of the high speed he began to feel giddy and he was seated on the second seat just behind the driver to the right side and when the speed of the bus reached the maximum the accused began to check it and the bus began to move zig zag from one side to the other as their was not sufficient air in one of the wheels and it finally fell on the right side and he does not know how he fell down and his right forearm was completely crushed and all round his right side eye he sustained injuries and also on both of ~~the~~ his knees and left hand and nobody tried to raise the bus and he extricated himself from the bus and by then, another bus came from Malebennur which was stopped and he and other injured persons were taken ~~with~~

in it to Malebennur Dispensary where they were treated and then sent to Davangere where he was admitted as an in-patient and his right arm above the joint was amputated and that the bus was overloaded and a P.C. in Mufti was sitting also to the right of the driver and the bus was in good condition.

3. P.W.2(Mr. Ranganna) corraborates P.W1 and states that at the time of incident the bus must have been going at a speed of more than 30 miles an hour and that the bus was overloaded and describes the injuries he sustained and he heard the screams of his brother P.W1 and he lifted the bus a little when P.W1 extricated himself and speaks about the removal of P.W1. to Davangere Hospital and on 13-9-1935, the town Sub Inspector of Police of Davangere recorded his statement(Exhibit P1.)

4. P.W3(Mr Ramaswamy Industrial Superintendent, Bangalore Division) states that he examined Bus NO. Mys.6749 - a eight cylinder Ford Bus on 16-9-1935 and found its steering rod disconnected and the connecting rod pin and nut missing and the ball had come out of the groove and the steering had been disconnected and describes the other injuries the buss had sustained and also that the four tubes in the wheels were sound and that by his inspection of the steering wheel connecting rod he states he found the threads holding the nut were not worn out and the hole in which the pin was inserted was perfectly alright and that the split pin had been taken out and the nut removed after the incident and he opines that the bus must be going on the centre of the road at the speed of nearly 30 to 40 miles when the right wheel of the bus might have skidded and this skidding must have forced the bus to the left side and from the left side Al., has taken a sharp and sudden turn to the right without reducing the speed or he might have applied the brakes while taking the turn and this has upsetted the balance of the buss and it has thus fallen to the right side and if the buss had been going at the normal speed of 15 to 20 miles such an incident would not have happened and on account of the rain some parts of the road were slushy and Ex.P2 is the certificate he issued and the said bus he examined is the one now before the court (art 1)

5. P.W4(Mr.T. Sethu Rao, S.A.S., of Nyamathi Dispensary)states that he examined one Hanumappa on 15-9-1935 and describesthe injuries he had and Ex.P3 is the reply he sent to the S.I., of Police Harihar to his requisition.

6. P.W5(Mr.T. Rama Rao S.A.S., of Malebenur)states that he attended on six persons on 12-9-1935 namely P.Ws 1 and 2 Hanumappa Sarvamangalamma and Siddalingamma who were brought to him as having been injured in the bus accident and describes the injuries they had and he sent P.W1., to Davangere dispensary and Ex.P.4; 5 and 6 are the ones he issued.

7. P.W6(Daffedar of Police Soma Singh of Malebennur)states that on having of this accident he went to the spot and speaks about the removal of the injured persons to Davangere Dispensary and Ex.P.7 is the requisition of P.W4., to take the injured P.W1., to Davangere Dispensary

8. P.W.7(P.C. Abdul Rahaman of Malebennur O.P.) states that on 12-9-1935 he was on sentry duty and checked the busses and first Bus NO. 5066 came from Shimoga and as it was Malebennur shandy it stood at the T.B., and afterwards bus NO. Mys.6749 driven by the accused(A1) came and(A2) was the conductor in it and it had 25 passengers including the driver and the conductor and when it started from there it had 16 passengers and after the bus went a distance of about 50 yards 8 or 10 persons ran and got into the bus and he called out the bus to be stopped and A1 did not stop it and in the check Register Ex.P8 - he first noted 25 passengers but he counted afterwards to 16 as it had 16 passengers when it started Ex.P.8-A and in the course of his cross-examination he states that he made no report to the fact tha there were 25 passengers when the bus came nor has he reported that 8 or 10 persons ran and sat into it when it left and my reading Ex.P8 leads me to the conclusion that the alteration is a deliberate one mad afterwards and it is obvious that the first figure is ~~a deliberate one~~ rubbed out and 16 written in it.

9. P.W8(Doctor Rama Rao, Assistant Surgeon, Davangere), states about the injuries P.Ws. 1; 2; - Hanumappa Veerabasappa, Sarvamangalamma Gurusiddiah and Siddalingamma had when he treated them on 12-9-1935 at 8 P.M., which he has detailed in Ex.P.9.

10. P.W9 (Channabasappa) is a mahazar witness for the condition of the bus afterwx the accident.

11. P.W.10 Hanumanthappa states that he drove Bus Mys.5066 of V.S. Service on 12-9-1935 from Shimoga to Harihar and the Bus now before the court was driven by A1 and his bus reached Honnali at 3-35 P.M. and the bus of A1 was already at Honnali and he started from Honnali first, and reached Malebennur and A1 came ten or 15 minutes after him and that he left Malebennur Bus Stand first and stood near the dispensary and A1 went in advance of him and near Kumbalur he saw the said bus had fallen and speaks about the removal of the injured persons

12. P.W11(P.C. NO 477 Raja Rao) states that on 12-9-1935 he returned from Shimoga and first travelled in Mr. Meer Mohideen Bus till Honali and from there, he travelled in the bus of the accused and came to Malebennur and Mr. Mohideen's bus was standing (the near T.B and though there was no seats available in the bus of the accused, he came sitting in it to the right of the driver and that at Malebennur A2 told A1 that in the hind wheel air was leaking but he did not hear what A2 told him in reply and between Malebennur and Kumbalur the said bus slipped and A1 took it to the right and applied breaks when it fell to the right and that the bus was going very fast and he states that it might be going more than 20 miles speed and in course of his cross-examination he xxxxxxxxx states that he knew that no one oughx was to sit to the right of the driver and to do so was an offence punishible under Motor Vehicle Regulation.

13. P.W.12(Mr. Venugopala Rao - R.I., of Malebennur) speaks about his preparing the sketch of the scene of occurence Ex.P.10

14. P.W.13(Sub Inspector of Police, Mr. Nanjappa) states about h his registering a case on 13-9-1935 under Section 338 I.P.C., and the investigation he did till he gave the charge sheet to the court on 1-10-1935 and states that according to 'H' Permit granted by the Distric Magistrate Chitaldrug, the said bus is permitted to run at the speed of 25 miles per hour.

15. The accused when questioned filed a written statement and stated that they did no mistake which I have perused and from the.

the evidence before me I was of opinion that no case had been made out against A2 under Section 338 I.P.C., and so I discharged him and charge under Section 338 I.P.C., was framed against A1, he pleaded not guilty to the said charge and the P.Ws were further cross-examined and the accused examined three witnesses on his behalf and I now refer in brief to the evidence adduced by them.

16. D.W1(Dadde Sab) states that the said bus was going at a speed of 15 to 20 miles and he was a passenger in the said bus.

17. Dw.2(kariyappa) has not stated anything except that he was a Mahazar witness.

18. Dw3. (Mr. Rama Rao) states that he owned Motor Service in Shimoga District and the accused served under him for 5 or 6 years and that he is a capable driver and also finds that if the threads are worn out and if there is any defect in the manufacture or casting of the push rod connection then the push rod connection can gave way and also due to road bumps it might give way and that among the several parts of the bus the steering rod connection is subject to violent and frequent shocks.

19. This is all the evidence which I have considered and also given some thought to the arguments advanced by the Counsel for the accused Mr. Sreenivasa Iyengar and from the evidence before me it is obvious that the bus at the time of the accident is driven by the driver at a reckless speed and I see no reason to doubt the evidence of P.W3. on this point whose is an expert evidence and if the bus was going at a moderate speed of 15 to 20 miles as fixed by the 'H' Permit obviously such a nasty accident could not have taken place and A1 is Criminally negligent in having driven the bus at such break-neck speed little caring for the lives and safety of the passengers sitting in the bus, and I have also seen the bus and the said bus is a new one and the theory of the Push-Rod pin or the screw giving way so easily cannot be believed and as such I hold A1 guilty of having committed an offence punishible under Section 338 I.P.C.; and further, I am of opinion that this rash and utterly negligent act of the accused deserves a deterrent sentence o punishment and it was a pitiful sight to see the injured persons and one a cripple all his life, who travelled in the bus to reach

their destinations and as such acting under Section 258(2) of Cr. Cr.P.C., I convict and sentence the said accused Mahomed Sab to undergo rigorous imprisonment for two months.c. -

20. The conduct of P.W.11(P.C.477 - Raja Rao) also deserves to be noticed and it is a pity that himself being a Police Constable sits not only to the right of driver in violation of the Rule which he knows well and also practically helps the accused to go at break-neck speed without checking him which it was ~~~ bounden duty to do and I am of opinion that the continuence of such an indifferent P.C., in the force serves no useful purpose and he must be summarily dismissed from the force.

21. Article 1 Bus Mys 6749 is ordered to be delivered back to Mr. Rahim Baig its owner.

In open court

(Sd) Mir Safdar Hussein

Special Ist Class Magistrate,
Davangere.

COPY"

FOR DISTRICT MAGISTRAT
CHITALDRUG DIST.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE,
General and Revenue Secretariat,

No. P 7035 / Lgs 63-35-13 ated, Bangalore, 21st / 23 April 1936.

NOTICE.

To
S. Mahamed Sab,
Shimoga.

- - - -

Whereas it has come to the notice of Government that you have been convicted under Section 338 I.P.C in C.C.191/35-36 on the file of the Special First Class Magistrate Court, Davangere and sentenced to two months rigorous imprisonment for having caused injuries to percons, including one who was made a cripple for life, by your rash and negligent driving of bus No.6748, you are hereby required to show cause, within one month from the date of service of this notice why your driving license should not be cancelled and a declaration made disqualifying you permanently for obtaining a licence under the Mysore Motor Vehicles Regulation.

By Order,

Sd/- M. Venkatesa Iyengar,
General Secretary to Government

S.R.4 p.t.o.

13 -2-

Memo No. P7036/Secn 2

Dated, Bangalore, the 21st 23 April 1936.

Copy of the foregoing is forwarded, with compliments, to the District Magistrate, Chitaldrug, with reference to his letter No.J2 C.888/35-36 dated 7th April 1936. The notice may kindly be caused to be served on the individual concerned and returned duly endorsed

By Order,

for (illegible)

for General Secretary to Government.

Appendix F G—1]

14

SUBJECT.....

.....

.....

Section Legis

File No. 43-35

Serial No. 13

Diary No. of letter replied to.....

Notice (In duplicate)
No. P 7038.

To

S. Mahamed Sab

Shimoga

General and Revenue Secretariat

( )

the *193*

Whereas it has come to the notice of Govt that you have been convicted under sec 338 I.P. in C.C 191/35.36 on the file of the Special First Class Magistrate Court, Davangere and sentenced to two months rigorous imprisonment, for having caused injuries to persons including one who was made a cripple for life by your rash and negligent ~~act in~~ driving bus no 6749, you are hereby required to show cause, within one months from the date of service of this notice why your ~~license~~ driving license should not be cancelled and ~~you~~ a declaration made ~~under sec 16(ii)~~ disqualifying you ~~the M.V. Rules~~ permanently for obtaining a license under the ~~Motor~~ M.V. Rules.

Date of issue.....23.4.36.....

Signed by .....Sd. N.R.J.....

List of enclosures.....

Copied by .....

Examined by.....

M.V. 15
Nepm

B.O

pm
16/4 Fa Gen Secy

Memo No. P 7036 of 23.4.36/Sec 2

Copy forwarded w/c to the Dcn Chitaldroog with reference to his letter no. J 2 C 888/35-36 of 7.4.36. The notice may kindly be caused to be served on the individual Concerned and returned duly endorsed.

B.O

pm
Fa Gen Secy

16/4/36

Legs. 43-25-17

16 2179/35

Tel. Address:—Dismag.
CHITALDRUG.

In reply, please refer
No. J2.C.888/35-36
Enclosures. 2.

OFFICE OF THE DISTRICT MAGISTRATE,
CHITALDRUG DISTRICT.

Dated Chitaldrug,.....20th May.....*1936*.

FROM

N. SUNDARARAJA IYENGAR, ESQ., B.A.,
District Magistrate,
Chitaldrug.

GENERAL DEPARTMENT
22 MAY 1936
To [illegible]

M. Venkatesiengar, Esq., M.A.,
Secretary to Government of Mysore,
General Department, BANGALORE.

Sir,

With reference to your Memo NO. P.7036 dated 21st, 23rd April 1936, requesting to serve notice against one S. Mohamed Sab motor-driver ~~Bxixer~~, Shimoga, I have the honor to return the original herewith duly served against the party.

I have the honor to be,
Sir,
Your most obedient servant

DISTRICT MAGISTRATE.
CHITALDRUG DIST.

VR.

20/5/36

17

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA
MYSORE,
General and Revenue Secretariat,

No. B035 Lgs 43-35-13 Dated, Bangalore, 21st April 1936.
Original 2320

NOTICE.

To

S. Mahamed Sab,
Shimoga.

- - - -

Whereas it has come to the notice of Government that you have been convicted under Section 338 I.P. in C.C.191/35-36 on the file of the Special First Class Magistrate Court, Davangere and sentenced to two months rigorous imprisonment for having caused injuries to persons, including one who was made a cripple for life, by your rash and negligent driving of bus No.6749, you are hereby required to show cause, within one month from the date of service of this notice why your driving license should not be cancelled and a declaration made disqualifying you permanently for obtaining a license under the Mysore Motor Vehicles Regulation.

By Order,

For General Secretary to Government

S.R.4

J2.C 888/35.36

[illegible]

Forwarded to the Police Inspector of Ramagiri Uttaku for service and report to be returned to the undersigned to this office with due endorsement of service

[illegible]

70
S.I. Town
29/4 — 25/4/36

Police for service and report at once

K. [illegible]
29.4.36

7/- 6- P.S.
Tirthahalli-
Received the summons
[illegible]
25/4/36 P.S.

[illegible]

Submitted
This may kindly be sent to Tirthahalli for service
K. [illegible]
S.I. 25.4.36

8 I a. Daffedar for Immediate Serv
and Report Early.

Hrt. Timmanaiah
for 8/5/36

Received.
9.5.36

ಇದಕ್ಕೆ ಲಗತ್ತು ಇರುವ ಸಂ. 180 p. 7035 Legis 43-35-13 ದಿ 23. April 1936 ರಲ್ಲಿರುವ ಪ್ರತಿ ನಿಯಮ ನಿರ್ದೇಶನಗಳನ್ನು ಕೈಗೊಳ್ಳಲು ತಿಳಿಸಿದೆ.

ದಿ. 9. 5. 36

Submitted.

Served before me
Hrt. Timmanaiah
I/c Inspector.

The duplicate notice has been duly served to the person concerned.

ದಿ. 9. 5. 36

Daffedar
Malur

No. T.2 888/35-36.

Submitted to the District Magistrate, Shimoga

The duplicate notice is served on the driver residing at Mavinagadde village and acknowledgement is enclosed for perusal.

Hrt. Timmanaiah
I/c Inspector
9/5/36 Tirthally Taluk

DEPUTY COMMISSIONER'S
11 MAY 1936
SHIMOGA DISTRICT

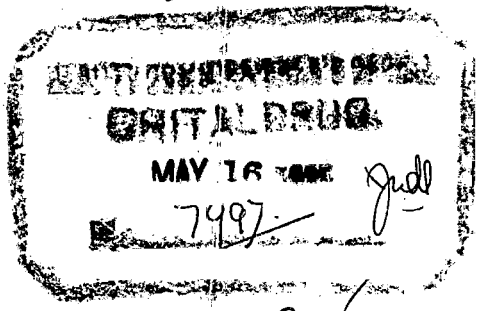
Memo

Forwarded with Compliments of the Division Inspector,

Childsburg re- Childsburg, as there is mutual interest.

Division Inspector

12-5-36



W-x 2. C 888 1. 35-36 Kansas

Forwarded with Compliments of the General Solicitor to Government of Chinese Bungalow. The district is served on hotel on 3-5-36

Respectfully submitted
Childsburg
Ills 19.5.36

Government of His Highness the Maharaja
of Mysore Lgs 43-35-C
General & Revenue Secretariate
Bangalore.

From

S. Mahamed Sab.
Shimoga
Date 30th May 36.

3- JUNE 1936 Sir,—

With refarance to your notice No P. 7035 Lgs 43-35-13 dated 23rd April 36, I wish to bring the followeng few lines to your kind consideration & favourable order.

It is true that I was convicted for two month rigorous imprisonment. But I have appealed in the Sessions court. So the case is under pending. I have Served in the Ghat of Agumbe in carrying Baligi poles and also Served in the Ghat of Subrahmanya. I have already served for 12 years and I have no any accident. But unfortunately I made an accident. I had no any rival on any one. So by excusing ~~for~~ my fault for this time my licensd is not to be cancelled is my request.

Awaiting your kind and favourable reply. your obedient Servant

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. P 815/ Lys'43-45-19. Dated, Bangalore, 9th June 1936.

From

The *General Secretary to the Government of His Highness the Maharaja of Mysore.*

To

The District Magistrate,
Chitaldrug District, Chitaldrug.

Subject:- Cancellation of the driving license of S. Mahamad Sab.

Sir,

With reference to correspondence ending with your letter No.J2.c888/35-36 dated 20th May 1936, I am directed to state that Mahamad Sab has since represented that he has appealed to the District Court against the judgment of the First Magistrate, Davangere and to request you, if so, to be so good as to inform me the stage of pendency of the appeal

2. A description of the person together with identification marks may also be furnished.

I have the honour to be,

Sir,

Your most obedient servant,

for General Secretary to Government

K.M.R.2.

23

Appendix F G—1]

SUBJECT.....

.....

.....

Section Legis

File No. 43-45

Serial No. Cp

Diary No. of letter replied to.....

No. P 815-1

To

The Dy. Chitaldroog

Subject: Cancellation of the driving license of S. Abdu Mahamad Sab

Sir,

Date of issue 10.6.36

With reference to correspondence ending with your letter no. J2 888/35-36 dt 20th May 36, I am directed to state that Abdu Mahamad Sab has since represented that he has appealed to the District Court against the judgment of the first Magistrate Davangere and to request you, if so, to be so good as to inform me the stage of pendency of the appeal

Signed by Hr - M R.S.

2 A description of the person together with identification mark, may also be furnished

I have etc

List of enclosures.....

Copied by .....

Asst

Post 6/6

for Gen Secy

Examined by.....

5/6/36

WD 03601—GPB—30,000—23-9-35

342-P-36

24

Tel. Address:—Disniag.
CHITALDRUG.

In reply, please refer to
No. J2.C.888/36-37
Enclosures.

OFFICE OF THE DISTRICT MAGISTRATE,
CHITALDRUG DISTRICT.

Dated Chitaldrug, 13th July *1936.*

Legis 43-35-24

FROM

N. SUNDARARAJA IYENGAR, ESQ., B.A.,
District Magistrate,
Chitaldrug District.

To

M. VENKATESA IYENGAR, ESQ., M.A.,
Secretary to Government of Mysore,
General Department, BANGALORE.

GENERAL SECRETARIAT
14 JULY 1936

Subject: Cancellation of the driving license of S. Mohamed Sab.

Sir,

With reference to your letter NO. P.8151/Legis. 43-45-19 dated 9/10th June 1936 on the above subject, I have the honor to state that it is reported that the appeal was posted to 8th July 1936 for argument. A description of the person is noted in the margin*

Name: S. Mohamed Sab
Caste: Mohamadan
Height: 5 feet 3 inches
Age: 30 years
Description: Short stature, lean build, black complexion Pox marks of the size of ¼ anna coin on the left foot, short ~~must~~ moustaches, wears spectacles, cuts hairs in short in the Mohamadan fashion.

I have the honor to be,
Sir,
Your most obedient servant

N Sundara Iyengar

DISTRICT MAGISTRATE
CHITALDRUG DIST.

Appendix F G—1]

25

SUBJECT.....

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.....

Section Regis

File No. 43-35

Serial No. 21

Diary No. of letter replied to.....

No. P 457.

To

The Dy. Chitaldrug

Subject: Cancellation of the driving licens

of S. Mahames Sab

Sir,

General and Revenue Secretariat

( )

the *193*

Date of issue 15-7-36

With reference to your letter no J2 C

888/36-37 dt 13.7.36, I am directed to ~~state~~ request

that the result of the appeal may kindly be

intimated and a copy of the Jawab in

appeal also sent for ~~information~~

reference.

I have etc

pp

15/7/36

for Chief Secy

Signed by Mr. M.R.J.

M.

15/7/36

List of enclosures.....

Copied by .....

Examined by.....

WD 03601—GPB—30,000—23-9-35

Legis 43-35 P 57/1936

Tel. Address:—Dismag.
CHITALDRUG.

In reply, please refer to
No. J2.C.888/35-36
Enclosures. Judgment Copy

OFFICE OF THE DISTRICT MAGISTRATE,
CHITALDRUG DISTRICT.

Dated Chitaldrug,...22nd....July.....1936.

FROM

N. SUNDARARAJA IYENGAR, ESQ., B.A.,
District Magistrate,
Chitaldrug District.

To

M. Venkatesa Iyengar Esquire M.A.,
General Secretary to Government,
B A N G A L O R E.

GENERAL 23 JULY 1936

SUBJECT:- CANCELLATION OF DRIVING LICENSE - DRIVER MAHOMED SAB.

Sir,

With reference to your No.P.457 Legis.43-35-2 dated 15th July 1936 on the above subject, I have the honor to forward herewith copy of judgment in criminal appeal No.12/35-36 on the file of the Sessions Judge, Shimoga Division dismissing the appeal for the reason stated therein.

The Sessions Judge has remarked in his judgment that the sentence of two months rigorous imprisonment awarded on the appellant is not at all much and seems to be very lenient. I agree with him. I request you therefore to be so good as to obtain orders directing the Government Advocate to file an application before the High Court for enhancement of this unduly lenient sentence.

Copies of depositions of witnesses and the judgment of the Special First Class Magistrate, Davangere have been called for from the District Superintendent of Police, Chitaldrug and will be forwarded to the Government Advocate on receipt.

I have the honor to be,

S I R,

Your most obedient servant,

District Magistrate,
Chitaldrug District.

IN THE COURT OF SESSIONS, SHIMOGA DIVISION.

Shimoga, Dated 9th day of July 1936

Present:-
S.R. Ramaswami Aiyar, Esq., B.A., B.L.,
Sessions Judge, Shimoga Division.

Criminal Appeal NO. 12/1935-36(Chitaldrug District)

Appellant		Respondent
Mahomed Sab	VS.	Government

Criminal appeal filed under Section 408 Criminal Procedure Code against the Judgment passed in C.C.NO. 191/35-36 on the file of the Special First Class Magistrate, Davangere, convicting the appellant accused under Section 338 Indian Penal Code and sentencing him to undergo rigorous imprisonment for two months.

JUDGMENT.

1. The appellant Mahomed Sab, a bus driver, has been convicted on a charge under Section 338 Indian Penal Code and sentenced to suffer rigorous imprisonment for two months.

2. Against the conviction and sentence, this appeal has been preferred on the grounds set out in the Memorandum of appeal.

3. The facts of the case are briefly as follows. The appellant who was a driver in the M.S.M.S. Bus Service running from Shimoga to Harihar, was driving as usual the bus number 6749 from Shimoga to Harihar. On the afternoon of 12-9-35 when the bus passed Malebennur and was proceeding towards Harihar side, the appellant who was informed that the hind wheel of the bus required a little more"blowing drove the bus fast with a view to reach Harihar before the air in the hind wheel completely escaped and the wheel became flat while driving fast the bus skidded in the road and swerved to a side of the road, the accused tried to turn the bus from a side of the road to the middle of the road and while attempting to do so the bus capsized in the middle of the road and fell on its right side and the passengers inside the bus were injured. About six passengers were injured and taken to the hospital for treatment. One passenger P.W.1 Mr.Srinivasa belonging to the Engineering Department, Hydrabad, was so seriously jured that his dying declaration had to be taken in the Davangere Hospital on the night of 12-9-35. The case was registered against the accused and the conductor of the bus and both of them were charge_sheeted in the Lower Court. After trial, the conductor

of the bus the second accused in the case, had been acquitted and the appellant had been convicted as above

4. The conviction and sentence is assailed on the grounds (1) that the evidence of the prosecution witnesses as to the speed at which the bus was driven differs according to the witnesses, (2) that the lower Court had not discussed and considered the evidence of the defence witnesses,(3) that it was not safe to place reliance upon the evidence of the expert witness P.W.3, the Industrial Superintendent Bangalore, (4) that the accident was due to slushy nature of the road and the skidding of the wheels at the place of the accident (5) that the injuries caused to the passengars were too remote a consequence and (6) that there was no evidence of rash or negligent act on the part of the appellant.

5. Mr. G. Srinivasa Iyengar, the learned Advocate for the appellant argued that there was ample evidence to show that the appellant was a careful and capable motor driver, that there was no clear evidence to show why the appellant should drive fast after starting from Malebennur hat even if it be conceded that the bus had been driven fast it should not be taken that it was a rash speed, that the opinion of the expert should not be considered conclusive in these matters as the expert witness, P.W.3, must have based his opinion not only on his inspection of the bus and the locality but also on the talk he had with the passengers and others and that there being evidence to show that the bus skidded twice before the accident and that the accused controlled it, the occurrence must have been due purely to an accident beyond the control and inspite of the carefulness of the appellant.

6. The learned Public Prosecutor argued that the very fact that the accident occurred in a straight road indicated that the accused must have driven the bus in a fast speed and that the accident must have occurred because on account of the rash speed the accused lost control over the bus and caused the accident by a sudden attempt to swerve the bus and apply the

brakes.

7. That there was the bus accident in the road about 1½th mile beyond Halebennur and that the bus capsized on the afternoon of 12-9-35 is not denied. About six passengers had received injuries and were treated Of the passengers P.Ws.1; 2 were two of the passengers who were sitting in the front seat and proceeding to Harihar with the members of their family. P.W.11 is a Police Constable who was also travelling in that bus from Shimoga to Davangere. The evidence of these three witnesses is to the effect that when the bus started from Halebennur towards Harihar side the appellant - driver enquired the conductor of the bus A2 whether everything connected with the bus was alright, that the appellant was informed that the left hind wheel was wanting in "blow" that the driver replied that before the air completely escaped he would drive fast and reach Harihar, that saying so he drove fast and that within two minutes the bus travelled about 1½th mile and that afterwards the bus kidded and swerved in two places and went to the extreme left side of the road and that when the driver turned the bus to the right of the road, the bus went in a Zig Zag way and finally capsized on its right side.

8. P.W.1 belongs to the Engineering Department in Hydrabad Service and P.W.2 is a brother of P.W.1 and is now staying at Sowlanga and was then working as a Surveyor. There is no reason why these two people should depose unfavourably towards the driver unless it be that they were the persons who were in the bus and who had been injured owing to the accident. It cannot be said that because these unfortunate persons received injuries in the accident they would deliberately invent a version against the appellant and depose that the appellant drove the bus rashly at a speed from 30-40 miles and that the bus though proceeding in a straight and un-obstructed road swerved 2-3 times and then finally capsized in the middle of the road.

9. P.W. 3 Mr. Ramaswami is the Industrial Superintendent of Bangalore Division and he proceeded to the spot and inspected the bus and the spot on the afternoon of 16-9-35. He states his [illegible] in detail in the examination-in-chief and his opinion regarding

accident is as follows: "From my inspection of the scene I am of opinion that the bus must have been going on the centre of the road at a very high speed nearly 30-40 miles when the right wheel might have skidded and this skidding might have forced the bus to the left side as seen at the spot of incident and from the left side the driver has taken a sharp and sudden turn to the right without reducing the speed or he might have applied the brakes while taking the turn and this has up-setted the balance of the bus and it has fallen to the right side and if it had gone at the normal speed of 15-20 miles such incident might not have happened." The witness further deposes that on account of the rains some part of the road looked slushy. Thus according to the opinion of the Mechanical Expert the accident was due to the driving of the bus at a very high speed and that the accident would not have occurred had the bus been driven at the normal speed of 15-20 miles. The appellant's advocate argued that the opinion of the expert was influenced by the talk he must have had with the bus passengers and the bus driver also. But such an argument cannot be accepted and it cannot be believed that the Mechanical Expert would have given his opinion on the mere talk he had with the bus passengers and not on his own test of the machinery of the bus and the inspection of the locality.

10. The evidence of the Mechanical Expert and two of the passengers who travelled in the bus is conclusive on the point that the accused drove the bus at a very high speed and that though the road was straight and there was no obstruction in the road, the accused lost control over the bus and while attempting to take the bus to the centre of the road, the bus capsized on its right side and the accident caused serious injuries to some of the passengers in the bus. It is in evidence that the road was slushy. The evidence of P.Ws., 1 and 2 is clear on the point that the appellant was informed that the left hind wheel of the bus required blowing and that it was not in its normal

its normal condition. When that was the case, it was the duty of the appellant to have set right the wheel and started the bus or at any rate seeing that the blow in the hind wheel was not full and of the required tension, the appellant must have known that driving the bus at a fast rate would lead to the swerving of the bus and would affect the proper control of the bus. The difficulty to control the bus must be expected seeing that the road was not dry and was in a wet and slushy condition in several parts. In these circumstances, it is clear and that the appellant acted in a rash manner in driving this bus at a very fast speed

11. It was argued on behalf of the appellant that the evidence as to the speed and as to the skidding of the bus in 2-3 places was not uniform. The evidence of the passengers on such matters is not likely to be uniform, all that they can say is that the bus was being driven at an un-usually high speed and that the bus swerved and then capsized.

12. The evidence of D.W.1 only goes to show that the appellant was a careful motor-driver. But that does not mean that on this particular occasion he could not have acted rashly.

13. The evidence adduced by the prosecution is satisfactory and convincing on the point that the accused drove the bus very fast and rashly and brought about the accident by his rashness and that the accident could not have occurred had the bus been driven in the normal speed of 15-20 miles.

14. The learned Magistrate has correctly appreciated the evidence The conviction of the appellant is upheld.

15. The consequences of the rash act of the appellant have been very serious. So the sentence of two months rigorous imprisonment awarded on the appellant is not at all much and seems to be very lenient.

16. The conviction and sentence passed on the appellant are upheld and the appeal is dismissed.

"COPY"

(Sd) S.J. Ramaswamian

SESSIONS JUDGE

DISTRICT MAGISTRATE
CENTRAL DRUG DIST.

32 869 p836

Tel. Address:—Dismag.
CHITALDRUG.

In reply, please refer
No. Cl.C.207/36-37
Enclosures. one

OFFICE OF THE DISTRICT MAGISTRATE,
CHITALDRUG DISTRICT.

Dated Chitaldrug,.....5th August.....*193* 6.

FROM

N SUNDARARAJA IYENGAR, ESQ., B.A.,
District Magistrate,
Chitaldrug.

GENERAL DEPT
-7 AUG 1936
Rec'd

M. VENKATESA IYENGAR, ESQ., M.A.,
Secretary to Government of Mysore,
General Department, BANGALORE.

Sir,

I have the honor to enclose, herein, for favour of early disposal, a list of Judicial currents pending in your office.

Whats this about?
Pore 7/8

I have the honor to be,
Sir,
Your most obedient servant

Put up after orders are issued in D No. 571
Pore 7/8/36

N Sundara Raja Iyengar
DISTRICT MAGISTRATE
CHITALDRUG DIST.

The matter
Can see only
for a formal letter
to the Collector
Pore
7/8/36

The case is apparently that of D No. 571. which is now under
the Secy. The DC. may (make)
7/8 mark. The subject matter is and what steps were taken with
with the date in the letter addressed on the subject. A copy

33

869

If appl this will be filed
Sub to for orders

17/8/86

17 AUG. 1936

For perusal with refce
to the enquiry made
on this letter re delay

Yours sly
17/8

24/8

B

P.T.O.

LIST OF CURRENTS PENDING WITH THE SECRETARY TO GOVERNMENT OF MYSORE, GENERAL DEPARTMENT, BANGALORE.

Sl. NO.	Current NO. and Date.	Subject matter	Date from which pending.
1.	J2.C.888/35-36 28-9-1935	Re: Bus accident at Kumbalur, Harihar Sub Taluk	21-7-1936

DISTRICT MAGISTRATE
CHITALDRUG DIST.

35

Appendix F G—1]

SUBJECT.....

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Section Legis

File No. 43-35

Serial No. 24

Diary No. of letter replied to..... .....

No/Ms. 20. P/108.

To

General and Revenue Secretariat

( )

the *193*

In exercise of the powers vested in them under Sec 18, (1), (ii) of the Mysore Motor Vehicles Regn 1928, The Govt of H.H. the Maharaja of Mysore are hereby declare the Driver, S. Mahamad Sab, whose description is given below, residing at Shimoga shall be disqualified permanently from obtaining a driving license under the said Regulation

Here enter matter in square brackets: I/a

Last license held No 159 of 1934-35 issued by the D.S.P. Shimoga Dt

B.O

Date of issue..... 11.8.36.

Signed by ..... Mr. N.R.J.R.

List of enclosures.....

Copied by ..... To, The Compiler, M.G., for publication in the Gazette & supplying 12 spare copies to this secty.

Examined by..... .....

PM 7/8
For Gen Secy,

Memo P 1109-17. 7/8

Copy forwarded w/c to the D.G.P. Mysore and Dr's of Dts except Chitl for information

B.O 7/8

WD 03601—GPS—30,000—23-9-35

36

Memo

Copy forwarded w/c to the Hon Chitaldroog Correspondence enquiring with reference to his letter no J.2.C. 888/35-36d 22.7.36, with the direction that there is no need to move the High Court for enhancement of the sentence, as 2 months' R.I. Comprisg with the permanent cancellation of the driving licence is considered sufficient punishment

A separate letter to Hon Chitaldroog re enhancement may be put up
MM
7/8

B.O.

MM 7/8
For Gen Secy

Memo. No Pol 197 d 11.8.1936.

Copy of the noff. forwarded w/c to the Secretary to the Hon'ble the Resident in Mysore for information

B.O.

MM 7/8
For Gen Secy

M 7.8.36.

P1108
Lys 63-35-24

[illegible] of the powers vested in them under Section 18 (1) [illegible] Motor Vehicles Regulation 1933, the Government [illegible] of Mysore hereby declare that Driver [illegible], whose description is given below, residing at [illegible] disqualified permanently from obtaining a driving [illegible] under the said Regulation.

[illegible]

[illegible] feet [illegible] inches.

[illegible] thirty years.

[illegible] Short stature, lean build, black complexion, [illegible] of the size of [illegible] anna coin on the left foot, short moustaches, wears [illegible], cuts hair ≠ short in the [illegible] fashion.

[illegible] No. 159 of 1934-35, issued by the District [illegible] District.

By order,

Sd/- [illegible] Iyengar,

[illegible] Secretary to Government.

[illegible] for publication.

[illegible] forwarded with compliments to the District [illegible], ... District.

By order,

[illegible]

[illegible] Secretary to Government

GENERAL SECRETARIAT.

No. P. 1108—*Legis.* 43-35-24, *dated* 8—11*th August* 1936.

In exercise of the powers vested in them under Section 18 (i), (ii) of the Mysore Motor Vehicles Regulation, 1928, the Government of His Highness the Maharaja of Mysore hereby declare that Driver S. Mahamed Sab, whose description is given below, residing at Shimoga, shall be disqualified permanently from obtaining a driving license under the said Regulation:—

Caste—Mohamadan.
Height—Five feet three inches.
Age—Thirty years.
Description—Short stature, lean build, black complexion, Pox marks of the size of ½ anna coin on the left foot, short moustaches, wears spectacles, cuts hair short in the Mahomedan fashion.

Last license held No. 159 of 1934-35, issued by the District Superintendent of Police, Shimoga District.

By Order,
M. VENKATESA IYENGAR.
Secretary to Government,
General Department.

Appendix F G—1]

38

SUBJECT.....

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Section Legs

File No. 43-35/3

Serial No. 25

Diary No. of letter replied to.....

No. P 1190

To

Mr Jan Chitaldwg

General and Revenue Secretariat

( )

the *193*

Sir Subject: Cancellation of Driving licence S. Mahamed Sa

With reference to para 2 of your letter no J2 C 888/35-36) 22.7.36 I am directed to state that there is no need to move the High Court for enhancement of the sentence as two months R.I, Complete with the permanent cancellation of the driving license is considered sufficient punishment.

A copy of the Govt notification no. P 1108 Legis 43-35-24) 11.8.36 relating to his permanent disqualification was sent to you on the 11th August 36, vide memo no P 1108

I have Etc

Date of issue..... 14.8.36.

Signed by ..... Jan M R J R.....

List of enclosures.....

Copied by .....

Examined by.....

13/8

for Gen Secy

13/8/36

WD 03601—GPB—30,000—23-9-35

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. P 1190 Legs 43-35-25

Dated, Bangalore, 13th August 1936

From

The *General Secretary to the Government of His Highness the Maharaja of Mysore.*

To

The District Magistrate,
Chitaldrug District.

Sir,

Subject:- Cancellation of Driving License - S.Mahamed Sab.

With reference to para 2 of your letter No.J2 C 888/35-36 dated 22nd July 1936, I am directed to state that there is no need to move the High Court for enhancement of the sentence, as two months R.I. coupled with the permanent cancellation of the driving license is considered sufficient punishment.

A copy of the Government Notification No.P.1108/Legis.43-35-24 dated 11th August 1936 relating to his permanent disqualification was sent to you on the 11th August 1936, with memo No.P.1109-17.

I have the honour to be,

Sir,

Your most obedient servant,

for General Secretary to Government.